

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

File No. **11-20129**

-VS-

Hon. Robert H. Cleland

SCOTT WILLIAM SUTHERLAND (D-1), et al

Defendant.

UNITED STATES OF AMERICA,

Plaintiff,

File No. **11-20066**

-VS-

Hon. Robert H. Cleland

JEFF GARVIN SMITH, et. al.,

Defendants.

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**JOINT RENEWED MOTION TO COMPEL
COMPLIANCE WITH STANDARD ORDER
OF DISCOVERY, FED. R. CRIM. P. 16 AND TO
PRODUCE GIGLIO AND BRADY MATERIAL BEFORE TRIAL**

All Defendants in trial group one (1), by and through counsel, moves this Court to compel compliance with Standard Order of Discovery, *Fed. R. Crim. P. 16* and to Produce *Giglio* and *Brady* material, for the following reasons:

1. The Defendants are charged in the Third Superseding Indictment with Count 1, Racketeer Influenced Corrupt Organization-Conspiracy in violation of 18 U.S.C. §1962(d) and Count 3, Conspiracy to Manufacture, Distribute and Possess With Intent to Distribute Controlled Substances in violation of 21 U.S.C. §§46,841(a)(1).
2. Trial is set for September 29, 2014.
3. On August 17, 2012, Defendant Sutherland, filed his Request and Memorandum in Support for Compliance with Standing Order for Discovery, *Fed. R. Crim. P. 16*, Disclosure of *Brady* Materials, and *Rule 404(b)* Evidence (Doc. #446).
4. Defendant Sutherland filed his Motion to Compel Compliance with Standard Order of Discovery, Fed. R. Crim. P. 16 and to produce *Giglio* and *Brady* material before the trial. (Dkt #765). All Defendants in Group One (1), joined in.
5. In response, the government and Defendants entered into a Discovery Agreement wherein the government acknowledged their obligations under the rules and case law and promised to “fully comply”. The

Defendants, in turn, agreed to withdraw their Discovery motion, including the Motion on Dkt. # 765.

6. On or about August 29, 2014, Jencks materials were sent or received by counsel. However, there were very little, if any, *Giglio* or *Brady* material included.
7. The undersigned has made repeated requests for the materials but the government has failed or refused to respond or provide the requested materials.
8. The Court should compel, forthwith, the disclosure if all *Brady* and *Giglio* material, including, but not limited to:
 - A. the criminal histories of government witnesses,
 - B. the date of every sealed guilty plea, so that counsel can timely move to unseal them,
 - C. all Rule 11 plea agreements, and cooperation agreements,
 - D. any consideration provided to a government witness including, but not limited to any financial benefit, placement in protective custody or witness protection program, reduced charges or sentences, agreements not to prosecute in State or Federal court, forfeiture agreements, agreements not to prosecute third parties, etc.

E. disclosure of any presentence report in-camera for inspection by the Court and subsequent disclosure of *Brady* or *Giglio* material contained therein.

9. A hearing on this motion may not be deemed mandatory. However, the Defendants requests a hearing.

10. Defendants waive their personal presence should the Court conduct a hearing.

11. Concurrence with the government has been sought and the government has yet to respond or provide the requested information.

12. Defendants incorporate by reference, to Brief in Support filed with the original Motion, Dkt. # 765.

WHEREFORE, for the following reasons, Defendants request this Court compel compliance with Standard Order of Discovery, *Fed. R. Crim. P. 16* and to Produce *Giglio* and *Brady* material.

Respectfully submitted,

s/Craig A. Daly

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Dated: September 16, 2014